

Exhibit A: Site Diagram
Exhibit B: Scope of Work and Schedule
Exhibit C: Public Participation Plan

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology) and Kaiser Aluminum & Chemical Corporation (Kaiser) under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Kaiser to complete a Remedial Investigation (RI) to evaluate the extent of contamination, and a Feasibility Study (FS) to evaluate potential cleanup actions at the Kaiser Aluminum & Chemical Corporation Trentwood Site (the Site) as specified in Section VII of this Order and in Exhibit B to the Order. Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Agreed Order is issued pursuant to the authority of the Model Toxics Control Act (MTCA), RCW 70.105D.050(1).

III. PARTIES BOUND

This Agreed Order shall apply to and be binding upon the Parties to this Order, their successors and assigns. Subject to the next two sentences, the undersigned representative of each Party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such Party to comply with the Order. Kaiser is in a Chapter 11 bankruptcy proceeding currently pending in the U.S. Bankruptcy Court for the District of Delaware as Case No. 02-10429 (JFK). While Kaiser believes that entry into this Agreed Order is within the ordinary course of Kaiser's business, and thus does not require Bankruptcy Court approval, it is possible that the Bankruptcy Court could disagree. Kaiser agrees to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Kaiser's responsibility under this Order. Kaiser shall provide a copy of this Order to all agents contractors and subcontractors retained to perform work required by this Order, and

shall ensure that all work undertaken by such agents, contractors and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in Chapter 70.105D RCW and Chapter 173-340 WAC shall control the meanings of the terms used in this Order.

1. Site: The Site is referred to as the Kaiser Aluminum & Chemical Corporation Trentwood Site and is generally located at East 15000 Euclid Avenue in Spokane Valley, Washington. The Site is defined by the extent of contamination caused by the release of hazardous substances at the Site. The Site constitutes a Facility under RCW 70.105D.020(4).

2. Parties: Refers to the State of Washington, Department of Ecology and Kaiser Aluminum & Chemical Corporation.

3. PLP: Refers to Kaiser Aluminum & Chemical Corporation.

4. Agreed Order or Order: Refers to this Order and each of the exhibits to the Order. All exhibits are integral and enforceable parts of this Order. The terms "Agreed Order" or "Order" shall include all exhibits to the Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such findings by Kaiser:

(1) Kaiser is the owner and operator of real property known as the Kaiser Trentwood facility located at East 15000 Euclid Avenue in Spokane Valley, Washington (the Site). The Site is located within the Spokane River Valley, approximately ten miles east of downtown Spokane at Township 25 North, Range 44E, Section 2 (southern $\frac{1}{4}$), Section 10 (Northeast $\frac{1}{4}$), and Section 11 (northern $\frac{1}{4}$). The Site is approximately 512 acres in size and is more particularly described in Exhibit A (Site Diagram).

(2) In March 1942, the Defense Plant Corporation began construction of the Trentwood facility to produce aluminum needed for war-time aircraft production. The first shipment of ingots was made in December 1942 and finished aircraft aluminum sheet was first produced in March 1943. Aluminum Company of America (ALCOA) operated the Trentwood facility until the end of World War II.

(3) Kaiser initially leased the Trentwood facility from the United States government in May 1946 and later purchased the property and plant. The Trentwood facility currently operates as an aluminum sheet and plate rolling mill.

(4) In November 1980, Kaiser submitted a Resource Conservation and Recovery Act (RCRA) Permit Part A application (EPA ID number WAD009067281) to the United States Environmental Protection Agency (EPA) to obtain interim status and thereby retain the option of storing hazardous waste over 90 days.

(5) Kaiser first submitted a RCRA closure plan to Ecology in 1986 to address the interim status of dangerous waste storage facilities. A revised Interim Status Closure Plan was submitted in 1991.

(6) EPA Region X conducted a RCRA Facility Assessment (RFA) in December 1992. The purpose of the RFA was to identify Solid Waste Management Units (SWMUs) and to evaluate if identified SWMUs require additional investigation and/or corrective action under RCRA. The RFA report recommended additional review and/or monitoring at six SWMUs and three identified Areas of Concern. The RFA recommended no further action at 26 of 32 identified SWMUs.

(7) In November 1994, EPA authorized the Washington Department of Ecology to implement corrective action at treatment, storage, and disposal (TSD) facilities within the state

and to use the Model Toxics Control Act (MTCA) as the corrective action authority under the State Dangerous Waste regulations (Chapter 173-303 WAC).

(8) In December 1994, Kaiser was notified of Ecology's preliminary finding that Kaiser was a Potentially Liable Person (PLP) under MTCA. In January 1995, Kaiser responded to Ecology acknowledging PLP status without admitting liability and reserving future rights and defenses allowed by law. Ecology issued a final PLP determination in March 1995.

(9) Since 1980, Kaiser has had several documented releases related to historical operations at the facility. A number of investigations and independent remedial actions have been conducted at the Site to address ground water and soil contamination as a result of the releases.

(10) Ground water monitoring at the Site began in 1979 to assess the impact of three on-Site landfills. Over one hundred additional wells have been installed since then to evaluate the nature and extent of contamination at the Site and a groundwater monitoring plan was implemented in the early 1990s. Additional systematic iterations of groundwater investigation have been implemented and the monitoring plans updated accordingly. The results of the monitoring show the presence of petroleum product with PCBs floating on ground water. Ground water sample analyses completed between December 1989 and December 2002 show the following constituents exceeding state and federal standards in groundwater at some locations at the Site: Total Petroleum Hydrocarbons (TPH), Polychlorinated Biphenyls (PCBs), Iron, Manganese, Antimony, and Arsenic. These results are summarized in the "Draft Groundwater Remedial Investigation/Feasibility Study" Report that was first submitted to Ecology in 1996, and revised in 2001 and 2003 following reviews by Ecology.

(11) Since 1993, Kaiser has been implementing independent remedial measures to contain and actively remediate groundwater in the Oil House and the Wastewater Areas of the facility to: (a) prevent movement of petroleum free-product floating on ground water that contains PCBs and of the dissolved hydrocarbons in groundwater; (b) recover free product; and (c) enhance biodegradation of dissolved and residual hydrocarbons.

(12) The Spokane Regional Health District completed a MTCA site hazard assessment in 2001; the Site was ranked a "2".

(13) PCB contamination in ground water and down-gradient of the Casting areas were further investigated in 2003 and 2004. The results of these studies, showing the presence of PCBs in ground water in the Casting and down-gradient areas, are summarized in the following reports:

Hart Crowser, 2004 (February 25), *Kaiser Hot Line Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2004 (April 12) *Kaiser Hot Line Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2005(January 4), *Kaiser DC-4 Furnace Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

(14) Kaiser has also conducted numerous soil investigations and independent soil removal actions to address releases related to historical operations at the facility. Reports of such removal actions had been submitted to Ecology in the form of independent reports. The following reports document releases to soils, removal actions, and residual concentrations of TPH, PCBs, or chromium in Site soils:

Hart Crowser, 1990 (March 22), *Interim Report Soil and Ground Water Quality Assessment Kaiser-Trentwood Works Spokane, Washington.*

Hart Crowser, 1991 (January 8), *Oil House Tank Removal Kaiser Trentwood Works Spokane, Washington.*

Hart Crowser, 1991 (May 1), *Site hazard assessment of Kensol product spill (letter)*.

Hart Crowser, 1991(June), *Transfer Line Removal and Cleanup, KACC-Trentwood Facility Spokane, Washington*.

Hart Crowser, 1991 (June 26), *Interim PCB Cleanup Report*.

Hart Crowser, 1991(September 18), *Observation and Documentation of Hoffman Flow-Through Process Tank Closure and Subsurface Investigation Kaiser Trentwood Facility Spokane, Washington*.

Hart Crowser, 1991 (October 15), *Removal of 8 Underground Storage Tanks (USTs) Kaiser-Trentwood Facility Spokane, Washington*.

Hart Crowser, 1992 (January 23), *Monitoring Well Installation and Soil and Groundwater Sampling: October through December 1991*.

Hart Crowser, 1992 (February 14), *Sampling Results from Beneath the Field-Constructed Concrete Tanks (memorandum)*.

Hart Crowser, 1992 (February 17), *Information regarding a historical release of polychlorinated biphenyls (PCBs) at Kaiser's Trentwood facility (letter)*.

Hart Crowser, 1992 (February 17), *Soil Boring Assessment at Oil House Drum Storage Area Trentwood Works, Spokane, Washington*.

Hart Crowser, 1992 (February 18), *Engineering Report – Hoffman Tank Cover KACC Trentwood Works*.

Hart Crowser, 1992 (March 10), *Continuous Can Process Line (CCPL) Investigation Kaiser-Trentwood Works*.

Hart Crowser, 1992 (July 28), *Trench Sampling Report Trentwood Works Spokane, Washington*.

Science Applications International Corporation, 1993 (July), *RCRA Facility Assessment PR/VS1 Report Kaiser Aluminum Trentwood Spokane, Washington*.

Hart Crowser, 1994 (February 16), *Chemical Sampling Data Results for Oil House Extraction Well Project (memorandum)*.

Hart Crowser, 1997 (February 25), *Subsurface Investigation, Rail Car Unloading (RCU) Area, Kaiser Trentwood Works, Spokane, Washington*.

Hart Crowser, 1997 (June 25), *Subsurface Investigation, Oil Reclamation Building (ORB), Kaiser Trentwood Works, Spokane, Washington*.

Hart Crowser, 1997 (July 7), *Interim Remedial Measure (IRM) Plan, Oil Reclamation Building, Kaiser Trentwood Works, Spokane, Washington*.

Hart Crowser, 1997 (July 7), *Interim Remedial Measure (IRM) Plan, Former Rail Car Unloading Area, Kaiser Trentwood Works, Spokane, Washington*.

Hart Crowser, 1998 (March 24), *Kaiser Trentwood Monitoring Well Installation Report, Wells MW-13, MW-14, MW-15, and MW-16, Kaiser Trentwood Works, Spokane, Washington.*

Hart Crowser, 1998 (May 19), *Soil Chemical Testing Results Hydrogen Sulfide Scrubber Building Excavation, Kaiser Trentwood Works, Spokane, Washington.*

Hart Crowser, 2003 (July), *Draft Groundwater Remedial Investigation/Feasibility Study, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2004 (February 25), *Kaiser Hot Line Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2004 (April 12), *Kaiser Hot Line Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2005 (January 4, 2005), *Kaiser DC-4 Furnace Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

Hart Crowser, 2005 (January) *Kaiser Cold Mill Data Report, Kaiser Trentwood Facility, Spokane, Washington.*

(15) In 2002, Ecology management of the Site cleanup was transferred to the Toxics Cleanup Program.

VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations by Kaiser:

1. Kaiser is the "owner or operator" as defined in RCW 70.105D.020(12), of a "facility" as defined in RCW 70.105D.020(4).

2. Based upon all factors known to Ecology, a "release" or "threatened release" of "hazardous substance(s)" as defined in RCW 70.105D.020(20) and RCW 70.105D.020(7), respectively, has occurred at the Site.

3. Based upon credible evidence, Ecology issued a potentially liable person status letter to Kaiser dated December 9, 1994, pursuant to RCW 70.105D.040, .020(16) and WAC 173-340-500. In January 1995, Kaiser responded to Ecology acknowledging PLP status without admitting liability and reserving future rights and defenses allowed by law. After providing for notice and opportunity for comment, reviewing any comments submitted, and concluding that

credible evidence supported a finding of potential liability, Ecology issued a determination that Kaiser is a potentially liable person (PLP) under RCW 70.105D.040 and notified Kaiser of this determination by letter dated March 13, 1995.

4. Pursuant to RCW 70.105D.030(1) and .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the Findings of Fact, Ecology believes the remedial actions required by this Order are in the public interest.

VII. WORK TO BE PERFORMED

Based on Ecology Findings of Fact and Ecology Determinations, it is hereby ordered that Kaiser take the following remedial actions at the Site and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein:

1. Kaiser shall furnish all personnel, materials and services necessary for, or incidental to, the planning, initiation, completion, and reporting upon the Scope of Work and Schedule, attached as Exhibit B. Exhibit B is incorporated by reference and is an integral and enforceable part of the Order. The work to be performed is the completion of the Remedial Investigation (RI) and the Feasibility Study (FS) for ground water and for soils at the Site.

2. The Scope of Work and Schedule (Exhibit B) and each element thereof are designed and shall be implemented and completed in accordance with the Model Toxics Controls Act (Chapter 70.105D RCW) and its implementing regulation (Chapter 173-340 WAC) as amended, and all applicable federal, state, and local laws and regulations.

3. Progress reports shall be completed on a quarterly basis. The reports shall address progress made during the period, work in progress, problem areas, key activities, deliverables submitted, field work and data generated, subcontracting, analytical services performed, and key staff changes.

4. As provided in the agreed upon Scope of Work and Schedule, attached as Exhibit B, Kaiser shall commence work and thereafter complete all tasks in Exhibit B in the time frames

and framework indicated unless the Department grants an extension in accordance with Section VIII.K, or unless provided otherwise in this Order.

5. If, at any time after the first exchange of comments on drafts, Ecology determines that Kaiser has made insufficient progress in the preparation of any of the deliverables required by this section, Ecology may complete and issue the final deliverable.

VIII. TERMS AND CONDITIONS OF ORDER

A. Public Notices

This Order has been the subject of public notice and comment pursuant to WAC 173-340-600.

B. Remedial Action Costs

Kaiser shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). Kaiser agrees to pay \$62,853 in costs incurred as of June 3, 2005 as well as future costs as provided herein. Future costs shall include work performed by Ecology or its contractors for, or on, the Site under Chapter 70.105D RCW, concerning this Order, including remedial actions and Order preparation, negotiation, oversight, and administration of this Order. Except as provided herein, Kaiser shall pay the required amount within ninety (90) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, a general description statement of work performed, and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs, other than disputed costs as provided herein, within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly, or as such interest rate may be modified in Ecology regulations. Such modified interest rate shall apply to costs accruing after the effective date of the regulation that modifies the rate. Kaiser shall pay any disputed costs that remain after completion of the dispute resolution process set forth below within ninety (90) days of a final determination by Ecology. If Ecology affirms the costs, Kaiser shall pay interest for the costs

affirmed from the date of the expiration of the original 90 day period following receipt of the itemized statement.

C. Implementation of Remedial Action

Except where necessary to abate an emergency situation, Kaiser shall not perform any additional, active remedial actions at the Site outside those remedial actions required by this Order, or other Ecology orders, unless Ecology concurs, in writing, with such remedial actions. For purposes of this paragraph, "active remedial action" shall mean on-the-ground investigation (including sampling), remedy construction, operation of remedial systems, or similar activities. Kaiser shall give Ecology written *notice* of remedial actions necessary to abate an emergency situation before, or, as soon as possible after, taking the action.

D. Designated Project Coordinators

The project coordinator for Ecology is:

Teresita Bala
Department of Ecology
Eastern Regional Office
4601 N. Monroe
Spokane, WA 99205-1295

The project coordinator for Kaiser is:

Patrick J. Blau
Kaiser Aluminum & Chemical Corporation
P.O. Box 15108
Spokane, WA 99215-5108

The project coordinators shall be responsible for overseeing the implementation of this Order. The Ecology project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and Kaiser, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinator(s).

Ecology and Kaiser may change their respective project coordinator, but must provide ten (10) days advance written notification of the change to the other party.

E. Performance

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a licensed professional engineer, or licensed hydrogeologist, or equivalent, with experience and expertise in hazardous waste site investigation and cleanup. Kaiser shall notify Ecology in writing of the identity of such engineer(s), or hydrogeologist(s), or others, and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

Any construction work performed pursuant to the Order shall be under the supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered in the State of Washington, except as provided in RCW 18.43.130.

F. Access

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the Site that Kaiser either owns, controls, or has access rights to, with escorts, at all reasonable times for the purposes of, *inter alia*: inspecting non-privileged records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing Kaiser's progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Kaiser. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by Kaiser unless an emergency prevents such notice. All persons who access the Site pursuant to this paragraph shall comply with the Site's approved Health and Safety Plan, if any. Ecology employees and their representative shall not be required to sign any release or waiver as a condition of site property access.

G. Sampling, Data Reporting, and Availability

With respect to the implementation of this Order, Kaiser shall make all sampling results, laboratory reports, and/or test results generated by it or on its behalf available to Ecology and shall submit these results in accordance with Section VII of this Order. These data shall be submitted in a mutually agreeable electronic format. The sampling referenced in this paragraph concerns data collected for the implementation of the RI/FS, and does not include sampling associated with the NPDES permit, ongoing operations, waste management, or other matters.

In accordance with Chapter 173-340-840(5), Kaiser shall submit sampling data according to Ecology's Environmental Information Data Submittal Guide. These submittals shall be provided to Ecology on a semi-annual basis.

If requested by Ecology, Kaiser shall allow split or duplicate samples to be taken by Ecology and/or its authorized representative of any samples collected by Kaiser pursuant to implementation of this Order. Unless Ecology agrees in writing, Kaiser shall notify Ecology seven (7) days in advance of any sample collection or work activity pursuant to the implementation of this Order at the Site. If the situation warrants it, Ecology will seek to allow less advance notice and will notify Kaiser in writing of its approval. Ecology shall, upon request, allow split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order to be taken by Kaiser or its authorized representative provided it does not interfere with Ecology's sampling.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under Chapter 173-50 WAC for the specific analyses to be conducted, unless otherwise approved by Ecology.

H. Public Participation

A public participation plan is required for this Site. Ecology has developed a public participation plan for the Site that is attached to this Order as Exhibit C.

Ecology shall maintain the responsibility for public participation at the Site. However, Kaiser shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop an appropriate mailing list, prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, and with input from Kaiser, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings;

2. With regard to investigation and cleanup of contamination at the Site covered by the Order, notify Ecology's project manager prior to any of the following: issuance of all press releases; distribution of fact sheets; performance of other outreach activities and meetings with the interested public and local governments. For all such press releases, fact sheets, meetings, and other outreach efforts by Kaiser that do not receive prior approval, Kaiser shall clearly indicate to its audience that the press release, fact sheet, meeting or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions, or as a presenter;

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- (a) Spokane Valley Library
12004 East Main
Spokane Valley, WA
- (b) Argonne County Library
4322 North Argonne Road
Spokane, WA 99206
- (c) Spokane City Library
906 W. Main Avenue
Spokane, WA 99201
- (d) Washington Department of Ecology
Eastern Regional Office

4601 N. Monroe
Spokane, WA 99205-1295

At a minimum, copies of all public notices, fact sheets, and documents associated with the public comment period shall be promptly placed in these repositories.

I. Retention of Records

During the pendency of this Order and for ten (10) years from the date of completion of work performed pursuant to this Order, Kaiser shall preserve all records, reports, documents, and underlying data in its possession concerning the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors and shall require contractors to insert similar record retention requirements into contracts with subcontractors. Upon request of Ecology, Kaiser shall make all non-privileged records available to Ecology and allow access for review within a reasonable time.

J. Resolution of Disputes

1. In the event a dispute arises as to an approval, disapproval, proposed change, or other decision or action by Ecology's project coordinator, the Parties shall utilize the dispute resolution procedure set forth below.

(a) Upon receipt of the Ecology project coordinator's decision, Kaiser has fourteen (14) days within which to notify Ecology's project coordinator of its objection to the decision or action.

(b) The Parties' project coordinators shall then confer in an effort to resolve the dispute. If the project coordinators cannot resolve the dispute within fourteen (14) days, Ecology's project coordinator shall issue a written decision.

(c) Kaiser may then request Ecology management review of the decision. This request shall be submitted in writing to the Eastern Region Toxics Cleanup Section Manager within seven (7) days of receipt of Ecology's project coordinator's decision.

(d) The Section Manager shall conduct a review of the dispute and shall endeavor to issue a written decision regarding the dispute within thirty (30) days of Kaiser's request for review.

(e) Kaiser may then request additional Ecology management review of the decision. This request shall be submitted in writing to the Toxics Cleanup Program Manager with seven (7) days of receipt of the Section Manager's decision.

(f) The Program Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute within thirty (30) days of Kaiser's request for review. The Program Manager's decision shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, except as provided herein, unless Ecology agrees in writing to a schedule extension.

K. Extension of Schedule

1. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed. The request shall specify:

- (a) The deadline that is sought to be extended;
- (b) The length of the extension sought;
- (c) The reason(s) for the extension; and
- (d) Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on Kaiser to demonstrate to the satisfaction of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause includes, but is not limited to:

- (a) Circumstances beyond the reasonable control and despite the due diligence of Kaiser including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by Kaiser; or
- (b) Acts of God, including fire, flood, blizzard, extreme temperatures, storm, earthquake, terrorist attack, or other unavoidable casualty; or
- (c) Endangerment as described in Section VIII.M of this Order.
- (d) Other circumstances agreed to by Ecology.

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of Kaiser.

3. Ecology shall act upon any written request for extension in a timely fashion. Ecology shall give Kaiser written notification in a timely fashion of any extensions granted pursuant to the Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.L when a schedule extension is granted.

4. An extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of:

- (a) Delays in the issuance of a necessary permit which was applied for in a timely manner;
- (b) Other circumstances deemed exceptional or extraordinary, or agreed to, by Ecology; or

(c) Endangerment as described in Section VIII.M of this Order.

L. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement. Minor changes include but are not limited to the collection of additional samples, laboratory analysis, or installation of additional wells/borings consistent with the Scope of Work.

Except as provided in Section VIII.N of this Order, substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and Kaiser. Kaiser shall submit a written request for amendment to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request for amendment is received. If the amendment to the Order represents a substantial change, Ecology will provide additional public notice and opportunity to comment. If Ecology does not agree to a proposed amendment, the disagreement may be addressed through the dispute resolution procedures described in Section VIII. J of this Order.

M. Endangerment

In the event Ecology determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct Kaiser to cease such activities for such period of time as it deems necessary to abate the danger. Kaiser shall immediately comply with such direction.

If, for any reason, Kaiser determines that any activity being performed at the Site is creating or has the potential to create a danger to human health or the environment, Kaiser may cease such activities. Kaiser shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction Kaiser shall provide Ecology with documentation of the basis for the

determination or cessation of such activities. If Ecology disagrees with Kaiser's cessation of activities, it may direct Kaiser to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, Kaiser's obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended for such period of time as Ecology determines is reasonable under the circumstances. In such a case, Kaiser shall not be subject to any enforcement action for stopping or delaying implementation of this Order.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

N. Reservation of Rights/No Settlement

This Order is not a settlement under Chapter 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Kaiser to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Kaiser regarding remedial actions required under this Order, provided Kaiser complies with this Order.

Ecology nevertheless reserves its rights under Chapter 70.105D RCW, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health and the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site. Kaiser reserves all rights and defenses with respect to any additional actions that Ecology may seek to require at the Site.

O. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Kaiser that would reasonably be expected to

impact implementation of this Order without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to Kaiser's transfer of any such interest in all or any portion of the Site and during the effective period of this Order, Kaiser shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, Kaiser shall notify Ecology of said transfer. Upon transfer of any interest, to the extent permissible under the Bankruptcy Code, Kaiser shall restrict uses and activities to those consistent with this Order and notify all transferees of the restrictions on the use of the property.

P. Compliance with Applicable Laws

1. All actions carried out by Kaiser pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in RCW 70.105D.090.

2. Pursuant to RCW 70.105D.090(1), the substantive requirements of Chapters 70.94, 70.95, 70.105, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order and that are known to be applicable at the time this Order becomes effective are binding and enforceable requirements of this Order.

Kaiser has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or Kaiser determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify the other party of its determination. Ecology shall determine whether Ecology or Kaiser shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Kaiser shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the

substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Kaiser and on how Kaiser must meet those requirements. Ecology shall inform Kaiser in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Kaiser shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

3. Pursuant to RCW 70.105D.090(2) in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the state to administer any federal law, the exemption shall not apply and Kaiser shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits. Such a determination by Ecology shall not affect the applicability of the exemption to any of the other statutes referenced in RCW 70.105D.090(1).

Q. Indemnification

Kaiser agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons, or for loss or damage to property, arising from or on account of negligent acts or omissions, or acts or omissions subject to strict liability, of Kaiser, its officers, employees, agents, or contractors in entering into and implementing this Order. However, Kaiser shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon Kaiser's receipt of written notification from Ecology that Kaiser has completed the remedial activity required by this Order, as amended by any modifications, and that Kaiser has complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70.105D.050, this Order may be enforced as follows:

1. The Attorney General may bring an action to enforce this Order in a state or federal court. Kaiser reserves all rights in such an action.
2. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for remedial actions and orders related to the Site. Kaiser reserves all rights in such an action.
3. In the event Kaiser refuses, without sufficient cause, to comply with any term of this Order, Kaiser will be liable for:
 - (a) Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply; and
 - (b) Civil penalties of up to \$25,000 per day for each day it refuses to comply.Kaiser reserves all rights in such an action.

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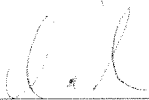
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4. This Order is not appealable to the Washington Pollution Control Hearings Board. Except as provided herein, this Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: _____

**KAISER ALUMINUM & CHEMICAL
CORPORATION**



Peter S. Bunin
Vice President & General Manager
Flat Rolled Products
Kaiser Aluminum & Chemical Corporation
Phone number: 509-927-6656

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

Flora J. Goldstein
Section Manager
Toxics Cleanup Program
Eastern Regional Office